

August 29, 2022

Steven Knott
Chief of Peer Review and Ethics Branch
Office of Chemical Safety and Pollution Prevention
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460-0001

Submitted via regulations.gov

Re: Nominations to the Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel; EPA-HQ-OPP-2022-0602

Dear Mr. Knott:

CropLife America (CLA)¹ and the Responsible Industry for a Sound Environment (RISE)² appreciate the opportunity to provide comments in response to the July 28, 2022 notice announcing the nominations for the Environmental Protection Agency (EPA) Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP).

CLA and RISE conducted a review of the 24 nominees to serve staggered terms of appointment on the FIFRA SAP. We strongly believe the FIFRA SAP is critical to supporting the integrity of FIFRA as this Panel provides independent scientific advice, information, and recommendations to the EPA Administrator on pesticides and pesticide-related issues. We support a FIFRA SAP that includes accomplished scientists with extensive knowledge and experience that represent a vast range of scientific disciplines with an appropriate balance amongst the different scientific and engineering fields to fulfill the remit of the Panel.

Since the purpose of the FIFRA SAP is to provide independent scientific advice to EPA, it is essential the Agency critically review and exclude scientists from the Panel that have conflicts of interests or established biases which could preclude their ability to act impartial in matters before the FIFRA SAP. More specifically, EPA is legally obligated to exclude scientists from the SAP whose conflicts of interest or established biases would preclude their ability to act impartially.³

The Federal Advisory Committee Act (FACA) imposes strict conflict of interest requirements on the SAP selection process. To meet the requirements established by FACA, the SAP shall be composed of impartial experts capable of providing independent review. The Office of Government Ethics advises against the participation of SAP panel members whose participation will create even the “appearance of loss of impartiality.”⁴ If a conflict exists between a panel candidate’s private financial interests and duties as a panel member, EPA should seek instead to appoint another nominee.⁵ Members may also be

¹ Established in 1933, CLA represents the developers, manufacturers, formulators, and distributors of pesticides and plant science solutions for agriculture and pest management in the United States. CLA represents its members by monitoring legislation, federal agency regulations and actions, and litigation that impact the pesticide and pest control industries and participating in such actions when appropriate, as well as communicating the benefits of pesticides to a variety of audiences. CLA’s members produce, sell, and distribute virtually all the pesticide and biotechnology products used by American farmers.

² RISE is a national not-for-profit trade association representing more than 220 producers and suppliers of specialty pesticide and fertilizer products to both the professional and consumer markets. RISE member companies manufacture more than 90 percent of domestically produced specialty pesticides used in the United States, including a wide range of products used on lawns, gardens, sport fields, and golf courses and to protect public health.

³ FIFRA SAP members are subject to the provisions of 5 CFR § 2635

⁴ 5 C.F.R. § 2635.501(a)(2016); see also EPA Science Advisory Board, Office of the Administrator, Overview of the Panel Formation Process at the Environmental Protection Agency Science Advisory Board at 9-10 (Sept. 2002) (“EPA Overview”),

⁵ EPA, Information on the Panel Formation Process for the EPA FIFRA SAP at 5-8 (Sept. 16, 2004), https://www.epa.gov/sites/production/files/2015-06/documents/srb_process_interviews.pdf.

excluded if they have taken a position that suggests an established position or implicates an inability to render impartial advice such as public statements on the issue and evidence of financial conflicts of interest.⁶ Therefore, based on our review of the nominees, along with the selection criteria and applicable regulations for the FIFRA SAP, RISE and CLA respectfully oppose the nomination of Dr. Beate Ritz and request the Agency further review the nomination of Dr. Dana Barr and Dr. Jakub Kostal for reasons outlined below.

Dr. Ritz is an accomplished scientist with credentials both as a physician and epidemiologist; however, we continue to object and support the previous CLA comments in 2018 that opposed her nomination to serve at that time on the FIFRA SAP. Dr. Ritz has served as an expert in the field of epidemiology for the plaintiffs in at least two cases related to alleged toxic exposure to glyphosate/Roundup®.⁷ Dr. Ritz received financial compensation for her role as a subject matter expert in this litigation; hence, we believe participation in this role represents a conflict of interest, as outlined in CLA's 2018 comments on her nomination⁸, as this conflicts with the provisions of 5 CFR part 2635 that are applicable to nominees of the FIFRA SAP.

Dr. Dana Barr is also a highly credentialed and cited scientist with an expensive background in environmental health studies, exposure science, and public health; however, we are concerned with Dr. Barr's potential lack of ability to provide unbiased and impartial expertise on pesticide-related issues before the FIFRA SAP. Based on statements that Dr. Barr made on a 2018 podcast⁹ there is a potential indication of an established bias against pesticide registrants, a misconception of the U.S. regulatory system of pesticides, and a perceived deference for the European system, based on the precautionary principle, for the regulation of pesticides. While Dr. Barr is a highly skilled scientist and researcher, RISE and CLA request the Agency further review the nomination of Dr. Barr for a potential lack of objectivity and impartiality on pesticide-related matters.

Lastly, while Dr. Jakub Kostal is an accomplished chemist with a background in green chemistry and predictive toxicology, we are concerned about a potential financial conflict of interest. Dr. Kostal has a private consulting business where he was the co-founder and principal of DOT (Designing Out Toxicology) Consulting, LLC¹⁰, which it appears he is still active in this role, and his involvement in the platform Toxfix.¹¹ We believe this creates a potential conflict between this nominee's private financial interests and duties as an SAP member. We encourage the Agency to further review this nominee.

For reasons outlined above, we respectfully oppose the nomination of Dr. Beate Ritz and request further review of Dr. Dana Barr for a potential established bias and Dr. Jakub Kostal for a potential financial conflict of interest. For the FIFRA SAP, we strongly support the nomination of scientists with an extensive and vast range of expertise who provide objective and impartial recommendations on pesticide-related issues to the EPA Administrator.

Thank you for consideration of these comments. If you have any questions, please do not hesitate to contact us.

Respectfully,

Megan J. Provost

Chris Novak

⁶ Id. at 10-14 ("Other factors considered during the selection process include availability of the potential panel member to fully participate in the panel's reviews, absence of any conflicts of interest or appearance of lack of impartiality, independence with respect to the matters under review, and lack of bias.").

⁷ In *Pilliod v. Monsanto Co* in 2021 and *Barrera v. Monsanto Co* in 2019..

⁸ <https://www.croplifeamerica.org/public-comments/ho0yt0kcqy3ys7omd6i4tvvia0d081>

⁹ <https://music.amazon.com/podcasts/f35de1e6-3c84-46df-8238-dfb3f19da263/episodes/550fab30-48cb-4d34-84af-2686a55eb9f9/food-sleuth-radio-dana-boyd-barr-ph-d-discusses-the-pesticide-chlorpyrifos-and-how-it-harms-children%E2%80%99s-development>

¹⁰ <https://par.nsf.gov/servlets/purl/10169429>

¹¹ https://www.toxfix.com/?page_id=53



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